

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2959 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
-

HARIYANI FERTILIZER COMPANY

Versus

STATE OF GUJARAT THROUGH SECRETARY

Appearance:

MR DM THAKKAR for Petitioner

MR BY MANKAD AGP for Respondent No. 2

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 12/08/97

ORAL JUDGEMENT

Rule. Mr BY Mankad learned AGP waives service on behalf of respondents. At the request of the learned advocates, this petition is heard finally today.

The petitioner by way of this petition challenged the order dated 24.6.94 Annexure-A passed by the District Supply Officer, respondent no. 2 herein and order dated 13.2.1996 Annexure-B passed by the Secretary, Food and Civil Supply Department, Gandhinagar-respondent no. 1 herein. By the impugned order, 3033kg of Wheat valued Rs 10,952/ has been confiscated. It is to be recalled that in the show-cause notice issued against the petitioner, it was alleged that the petitioner has not entered the

excess quantity of wheat in the Stock-Register and has not kept the price list.

Having heard the learned advocates and having perused the impugned order, I am of the view that the petition is required to be allowed on the ground that the authority below has not considered the case put forward by the petitioner. It is the case of the petitioner that on 6.3.1994 at late hours of night, the stock of 3033kg wheat was loaded by the concerned party at the business place of the petitioner. However, as it was Sunday, and the stock was unloaded at night and since the business was closed, the stock was not entered in the stock register. It is not in dispute that on the next date i.e. 7.3.1994 in the early hours of morning, the inspection was carried out by the officers on behalf of the respondent-department and the aforesaid stock of wheat was seized. It is not in dispute that on the same day, the necessary entry was effected in the stock register. In view of this fact, before the petitioner could make proper entry in the stock registers, the wheat in question were seized. In view of this factual position, the seizure and the ultimate order of confiscation of the entire stock of wheat is too harsh, and therefore to be interfered with.

In the result, this petition is allowed. The impugned orders dated 24.6.1994 and 13.2.1995 at Annexures A & B passed by the respondents are quashed and set aside. Rule made absolute with no order as to costs.
